

### § 7265. Disclosure of audit committee financial expert

#### (a) Rules defining “financial expert”

The Commission shall issue rules, as necessary or appropriate in the public interest and consistent with the protection of investors, to require each issuer, together with periodic reports required pursuant to sections 78m(a) and 78o(d) of this title, to disclose whether or not, and if not, the reasons therefor, the audit committee of that issuer is comprised of at least 1 member who is a financial expert, as such term is defined by the Commission.

#### (b) Considerations

In defining the term “financial expert” for purposes of subsection (a) of this section, the Commission shall consider whether a person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions—

- (1) an understanding of generally accepted accounting principles and financial statements;
- (2) experience in—
  - (A) the preparation or auditing of financial statements of generally comparable issuers; and
  - (B) the application of such principles in connection with the accounting for estimates, accruals, and reserves;
- (3) experience with internal accounting controls; and
- (4) an understanding of audit committee functions.

#### (c) Deadline for rulemaking

The Commission shall—

- (1) propose rules to implement this section, not later than 90 days after July 30, 2002; and
- (2) issue final rules to implement this section, not later than 180 days after July 30, 2002.

(Pub. L. 107–204, title IV, § 407, July 30, 2002, 116 Stat. 790.)

### § 7266. Enhanced review of periodic disclosures by issuers

#### (a) Regular and systematic review

The Commission shall review disclosures made by issuers reporting under section 78m(a) of this title (including reports filed on Form 10-K), and which have a class of securities listed on a national securities exchange or traded on an automated quotation facility of a national securities association, on a regular and systematic basis for the protection of investors. Such review shall include a review of an issuer’s financial statement.

#### (b) Review criteria

For purposes of scheduling the reviews required by subsection (a) of this section, the Commission shall consider, among other factors—

- (1) issuers that have issued material restatements of financial results;
- (2) issuers that experience significant volatility in their stock price as compared to other issuers;

(3) issuers with the largest market capitalization;

(4) emerging companies with disparities in price to earning ratios;

(5) issuers whose operations significantly affect any material sector of the economy; and

(6) any other factors that the Commission may consider relevant.

#### (c) Minimum review period

In no event shall an issuer required to file reports under section 78m(a) or 78o(d) of this title be reviewed under this section less frequently than once every 3 years.

(Pub. L. 107–204, title IV, § 408, July 30, 2002, 116 Stat. 790.)

## CHAPTER 99—NATIONAL CONSTRUCTION SAFETY TEAM

|       |  |
|-------|--|
| Sec.  |  |
| 7301. | National Construction Safety Teams. <ol style="list-style-type: none"> <li>(a) Establishment.</li> <li>(b) Purpose of investigation; duties.</li> <li>(c) Procedures.</li> </ol>   |
| 7302. | Composition of Teams.  |
| 7303. | Authorities. <ol style="list-style-type: none"> <li>(a) Entry and inspection.</li> <li>(b) Avoiding unnecessary interference and preserving evidence.</li> <li>(c) Coordination.</li> <li>(d) Interagency priorities.</li> </ol>   |
| 7304. | Briefings, hearings, witnesses, and subpoenas. <ol style="list-style-type: none"> <li>(a) General authority.</li> <li>(b) Briefings.</li> <li>(c) Public hearings.</li> <li>(d) Production of witnesses.</li> <li>(e) Issuance of subpoenas.</li> <li>(f) Failure to obey subpoena.</li> </ol> |
| 7305. | Additional powers.   |
| 7306. | Disclosure of information. <ol style="list-style-type: none"> <li>(a) General rule.</li> <li>(b) Exceptions.</li> <li>(c) Protection of voluntary submission of information.</li> <li>(d) Public safety information.</li> </ol>  |
| 7307. | National Construction Safety Team report.  |
| 7308. | National Institute of Standards and Technology actions.  |
| 7309. | National Institute of Standards and Technology annual report.  |
| 7310. | Advisory committee. <ol style="list-style-type: none"> <li>(a) Establishment and functions.</li> <li>(b) Annual report.</li> <li>(c) Duration of advisory committee.</li> </ol>  |
| 7311. | Additional applicability.  |
| 7312. | Construction.  |
| 7313. | Authorization of appropriations.   |

### § 7301. National Construction Safety Teams

#### (a) Establishment

The Director of the National Institute of Standards and Technology (in this chapter referred to as the “Director”) is authorized to establish National Construction Safety Teams (in this chapter referred to as a “Team”) for deployment after events causing the failure of a building or buildings that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. To the maximum extent practicable, the Director shall establish and deploy a Team within 48 hours after such an event. The Director shall promptly publish in the Federal Register notice of the establishment of each Team.

**(b) Purpose of investigation; duties****(1) Purpose**

The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States.

**(2) Duties**

A Team shall—

(A) establish the likely technical cause or causes of the building failure;

(B) evaluate the technical aspects of evacuation and emergency response procedures;

(C) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to subparagraphs (A) and (B); and

(D) recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.

**(c) Procedures****(1) Development**

Not later than 3 months after October 1, 2002, the Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall develop procedures for the establishment and deployment of Teams. The Director shall update such procedures as appropriate. Such procedures shall include provisions—

(A) regarding conflicts of interest related to service on the Team;

(B) defining the circumstances under which the Director will establish and deploy a Team;

(C) prescribing the appropriate size of Teams;

(D) guiding the disclosure of information under section 7306 of this title;

(E) guiding the conduct of investigations under this chapter, including procedures for providing written notice of inspection authority under section 7303(a) of this title and for ensuring compliance with any other applicable law;

(F) identifying and prescribing appropriate conditions for the provision by the Director of additional resources and services Teams may need;

(G) to ensure that investigations under this chapter do not impede and are coordinated with any search and rescue efforts being undertaken at the site of the building failure;

(H) for regular briefings of the public on the status of the investigative proceedings and findings;

(I) guiding the Teams in moving and preserving evidence as described in section 7303(a)(4), (b)(2), and (d)(4) of this title;

(J) providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures, including research conducted under the Earthquake Hazards Reduction Act of 1977 [42 U.S.C. 7701 et seq.]; and

(K) regarding such other issues as the Director considers appropriate.

**(2) Publication**

The Director shall publish promptly in the Federal Register final procedures, and subsequent updates thereof, developed under paragraph (1).

(Pub. L. 107–231, §2, Oct. 1, 2002, 116 Stat. 1471; Pub. L. 107–305, §15, Nov. 27, 2002, 116 Stat. 2381.)

## REFERENCES IN TEXT

This chapter, referred to in subssecs. (a) and (c)(1)(E), (G), was in the original “this Act”, meaning Pub. L. 107–231, Oct. 1, 2002, 116 Stat. 1471, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Earthquake Hazards Reduction Act of 1977, referred to subsec. (c)(1)(J), is Pub. L. 95–124, Oct. 7, 1977, 91 Stat. 1098, as amended, which is classified generally to chapter 86 (§7701 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of Title 42 and Tables.

## AMENDMENTS

2002—Subsec. (c)(1)(D). Pub. L. 107–305, which directed the substitution of “section 7306 of this title;” for “section 7307 of this title;” in subsec. (c)(1)(d), was executed to subsec. (c)(1)(D), to reflect the probable intent of Congress.

## SHORT TITLE

Pub. L. 107–231, §1, Oct. 1, 2002, 116 Stat. 1471, provided that: “This Act [enacting this chapter and amending section 281a of this title] may be cited as the ‘National Construction Safety Team Act’.”

**§ 7302. Composition of Teams**

Each Team shall be composed of individuals selected by the Director and led by an individual designated by the Director. Team members shall include at least 1 employee of the National Institute of Standards and Technology and shall include other experts who are not employees of the National Institute of Standards and Technology, who may include private sector experts, university experts, representatives of professional organizations with appropriate expertise, and appropriate Federal, State, or local officials. Team members who are not Federal employees shall be considered Federal Government contractors.

(Pub. L. 107–231, §3, Oct. 1, 2002, 116 Stat. 1472.)

**§ 7303. Authorities****(a) Entry and inspection**

In investigating a building failure under this chapter, members of a Team, and any other person authorized by the Director to support a Team, on display of appropriate credentials provided by the Director and written notice of inspection authority, may—

(1) enter property where a building failure being investigated has occurred, or where building components, materials, and artifacts with respect to the building failure are located, and take action necessary, appropriate, and reasonable in light of the nature of the property to be inspected to carry out the duties of the Team under section 7301(b)(2)(A) and (B) of this title;

(2) during reasonable hours, inspect any record (including any design, construction, or

maintenance record), process, or facility related to the investigation;

(3) inspect and test any building components, materials, and artifacts related to the building failure; and

(4) move such records, components, materials, and artifacts as provided by the procedures developed under section 7301(c)(1) of this title.

**(b) Avoiding unnecessary interference and preserving evidence**

An inspection, test, or other action taken by a Team under this section shall be conducted in a way that—

(1) does not interfere unnecessarily with services provided by the owner or operator of the building components, materials, or artifacts, property, records, process, or facility; and

(2) to the maximum extent feasible, preserves evidence related to the building failure, consistent with the ongoing needs of the investigation.

**(c) Coordination**

**(1) With search and rescue efforts**

A Team shall not impede, and shall coordinate its investigation with, any search and rescue efforts being undertaken at the site of the building failure.

**(2) With other research**

A Team shall coordinate its investigation, to the extent practicable, with qualified researchers who are conducting engineering or scientific (including social science) research relating to the building failure.

**(3) Memoranda of understanding**

The National Institute of Standards and Technology shall enter into a memorandum of understanding with each Federal agency that may conduct or sponsor a related investigation, providing for coordination of investigations.

**(4) With State and local authorities**

A Team shall cooperate with State and local authorities carrying out any activities related to a Team's investigation.

**(d) Interagency priorities**

**(1) In general**

Except as provided in paragraph (2) or (3), a Team investigation shall have priority over any other investigation of any other Federal agency.

**(2) National Transportation Safety Board**

If the National Transportation Safety Board is conducting an investigation related to an investigation of a Team, the National Transportation Safety Board investigation shall have priority over the Team investigation. Such priority shall not otherwise affect the authority of the Team to continue its investigation under this chapter.

**(3) Criminal acts**

If the Attorney General, in consultation with the Director, determines, and notifies the Director, that circumstances reasonably indi-

cate that the building failure being investigated by a Team may have been caused by a criminal act, the Team shall relinquish investigative priority to the appropriate law enforcement agency. The relinquishment of investigative priority by the Team shall not otherwise affect the authority of the Team to continue its investigation under this chapter.

**(4) Preservation of evidence**

If a Federal law enforcement agency suspects and notifies the Director that a building failure being investigated by a Team under this chapter may have been caused by a criminal act, the Team, in consultation with the Federal law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

(Pub. L. 107-231, § 4, Oct. 1, 2002, 116 Stat. 1472.)

**§ 7304. Briefings, hearings, witnesses, and subpoenas**

**(a) General authority**

The Director or his designee, on behalf of a Team, may conduct hearings, administer oaths, and require, by subpoena (pursuant to subsection (e) of this section) and otherwise, necessary witnesses and evidence as necessary to carry out this chapter.

**(b) Briefings**

The Director or his designee (who may be the leader or a member of a Team), on behalf of a Team, shall hold regular public briefings on the status of investigative proceedings and findings, including a final briefing after the report required by section 7307 of this title is issued.

**(c) Public hearings**

During the course of an investigation by a Team, the National Institute of Standards and Technology may, if the Director considers it to be in the public interest, hold a public hearing for the purposes of—

(1) gathering testimony from witnesses; and

(2) informing the public on the progress of the investigation.

**(d) Production of witnesses**

A witness or evidence in an investigation under this chapter may be summoned or required to be produced from any place in the United States. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

**(e) Issuance of subpoenas**

A subpoena shall be issued only under the signature of the Director but may be served by any person designated by the Director.

**(f) Failure to obey subpoena**

If a person disobeys a subpoena issued by the Director under this chapter, the Attorney General, acting on behalf of the Director, may bring a civil action in a district court of the United States to enforce the subpoena. An action under this subsection may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an

order of the court to comply with the subpoena as a contempt of court.

(Pub. L. 107-231, §5, Oct. 1, 2002, 116 Stat. 1474.)

#### § 7305. Additional powers

In order to support Teams in carrying out this chapter, the Director may—

- (1) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;
- (2) request the use, when appropriate, of available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;
- (3) confer with employees and request the use of services, records, and facilities of State and local governmental authorities;
- (4) accept voluntary and uncompensated services;
- (5) accept and use gifts of money and other property, to the extent provided in advance in appropriations Acts;
- (6) make contracts with nonprofit entities to carry out studies related to purpose, functions, and authorities of the Teams; and
- (7) provide nongovernmental members of the Team reasonable compensation for time spent carrying out activities under this chapter.

(Pub. L. 107-231, §6, Oct. 1, 2002, 116 Stat. 1474.)

#### § 7306. Disclosure of information

##### (a) General rule

Except as otherwise provided in this section, a copy of a record, information, or investigation submitted or received by a Team shall be made available to the public on request and at reasonable cost.

##### (b) Exceptions

Subsection (a) of this section does not require the release of—

- (1) information described by section 552(b) of title 5 or protected from disclosure by any other law of the United States; or
- (2) information described in subsection (a) of this section by the National Institute of Standards and Technology or by a Team until the report required by section 7307 of this title is issued.

##### (c) Protection of voluntary submission of information

Notwithstanding any other provision of law, a Team, the National Institute of Standards and Technology, and any agency receiving information from a Team or the National Institute of Standards and Technology, shall not disclose voluntarily provided safety-related information if that information is not directly related to the building failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

##### (d) Public safety information

A Team and the National Institute of Standards and Technology shall not publicly release any information it receives in the course of an investigation under this chapter if the Director

finds that the disclosure of that information might jeopardize public safety.

(Pub. L. 107-231, §7, Oct. 1, 2002, 116 Stat. 1475.)

#### § 7307. National Construction Safety Team report

Not later than 90 days after completing an investigation, a Team shall issue a public report which includes—

- (1) an analysis of the likely technical cause or causes of the building failure investigated;
- (2) any technical recommendations for changes to or the establishment of evacuation and emergency response procedures;
- (3) any recommended specific improvements to building standards, codes, and practices; and
- (4) recommendations for research and other appropriate actions needed to help prevent future building failures.

(Pub. L. 107-231, §8, Oct. 1, 2002, 116 Stat. 1475.)

#### § 7308. National Institute of Standards and Technology actions

After the issuance of a public report under section 7307 of this title, the National Institute of Standards and Technology shall comprehensively review the report and, working with the United States Fire Administration and other appropriate Federal and non-Federal agencies and organizations—

- (1) conduct, or enable or encourage the conducting of, appropriate research recommended by the Team; and
- (2) promote (consistent with existing procedures for the establishment of building standards, codes, and practices) the appropriate adoption by the Federal Government, and encourage the appropriate adoption by other agencies and organizations, of the recommendations of the Team with respect to—

- (A) technical aspects of evacuation and emergency response procedures;
- (B) specific improvements to building standards, codes, and practices; and
- (C) other actions needed to help prevent future building failures.

(Pub. L. 107-231, §9, Oct. 1, 2002, 116 Stat. 1475.)

#### § 7309. National Institute of Standards and Technology annual report

Not later than February 15 of each year, the Director shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

- (1) a summary of the investigations conducted by Teams during the prior fiscal year;
- (2) a summary of recommendations made by the Teams in reports issued under section 7307 of this title during the prior fiscal year and a description of the extent to which those recommendations have been implemented; and
- (3) a description of the actions taken to improve building safety and structural integrity by the National Institute of Standards and Technology during the prior fiscal year in response to reports issued under section 7307 of this title.

(Pub. L. 107-231, §10, Oct. 1, 2002, 116 Stat. 1476.)

### § 7310. Advisory committee

#### (a) Establishment and functions

The Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall establish an advisory committee to advise the Director on carrying out this chapter and to review the procedures developed under section 7301(c)(1) of this title and the reports issued under section 7307 of this title.

#### (b) Annual report

On January 1 of each year, the advisory committee shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

- (1) an evaluation of Team activities, along with recommendations to improve the operation and effectiveness of Teams; and
- (2) an assessment of the implementation of the recommendations of Teams and of the advisory committee.

#### (c) Duration of advisory committee

Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

(Pub. L. 107-231, §11, Oct. 1, 2002, 116 Stat. 1476.)

#### REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (c), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

### § 7311. Additional applicability

The authorities and restrictions applicable under this chapter to the Director and to Teams shall apply to the activities of the National Institute of Standards and Technology in response to the attacks of September 11, 2001.

(Pub. L. 107-231, §12, Oct. 1, 2002, 116 Stat. 1476.)

### § 7312. Construction

Nothing in this chapter shall be construed to confer any authority on the National Institute of Standards and Technology to require the adoption of building standards, codes, or practices.

(Pub. L. 107-231, §14, Oct. 1, 2002, 116 Stat. 1477.)

### § 7313. Authorization of appropriations

The National Institute of Standards and Technology is authorized to use funds otherwise authorized by law to carry out this chapter.

(Pub. L. 107-231, §15, Oct. 1, 2002, 116 Stat. 1477.)

## CHAPTER 100—CYBER SECURITY RESEARCH AND DEVELOPMENT

Sec.

7401. Findings.

7402. Definitions.

7403. National Science Foundation research.

- (a) Computer and network security research grants.

Sec.

(b) Computer and network security research centers.

7404. National Science Foundation computer and network security programs.

(a) Computer and network security capacity building grants.

(b) Scientific and Advanced Technology Act of 1992.

(c) Graduate traineeships in computer and network security research.

(d) Graduate Research Fellowships program support.

(e) Cyber security faculty development traineeship program.

7405. Consultation.

7406. National Institute of Standards and Technology programs.

(a),(b) Omitted.

(c) Checklists for Government systems.

(d) Federal agency information security programs.

7407. Authorization of appropriations.

7408. National Academy of Sciences study on computer and network security in critical infrastructures.

(a) Study.

(b) Report.

(c) Security.

(d) Authorization of appropriations.

7409. Coordination of Federal cyber security research and development.

7410. Grant eligibility requirements and compliance with immigration laws.

(a) Immigration status.

(b) Aliens from certain countries.

(c) Non-complying institutions.

7411. Report on grant and fellowship programs.

### § 7401. Findings

The Congress finds the following:

(1) Revolutionary advancements in computing and communications technology have interconnected government, commercial, scientific, and educational infrastructures—including critical infrastructures for electric power, natural gas and petroleum production and distribution, telecommunications, transportation, water supply, banking and finance, and emergency and government services—in a vast, interdependent physical and electronic network.

(2) Exponential increases in interconnectivity have facilitated enhanced communications, economic growth, and the delivery of services critical to the public welfare, but have also increased the consequences of temporary or prolonged failure.

(3) A Department of Defense Joint Task Force concluded after a 1997 United States information warfare exercise that the results “clearly demonstrated our lack of preparation for a coordinated cyber and physical attack on our critical military and civilian infrastructure”.

(4) Computer security technology and systems implementation lack—

(A) sufficient long term research funding;

(B) adequate coordination across Federal and State government agencies and among government, academia, and industry; and

(C) sufficient numbers of outstanding researchers in the field.

(5) Accordingly, Federal investment in computer and network security research and de-